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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/560,021	12/08/2005	Naoki Ode	450100-05119	1011
7590 William S Frommer Frommer Lawrence & Haug 745 Fifth Avenue New York, NY 10151				
04/28/2009				
EXAMINER				
BRYANT, DOUGLAS J.				
ART UNIT		PAPER NUMBER		
4123				
MAIL DATE		DELIVERY MODE		
04/28/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/560,021

**Applicant(s)**

ODE, NAOKI

**Examiner**

DOUGLAS BRYANT

**Art Unit**

4123

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 December 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-850)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date 12/08/2005, 02/28/2008

## **DETAILED ACTION**

### ***Specification***

The title of the invention is not descriptive. A new title is required that is clearly indicative of the invention to which the claims are directed.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 3 recites the limitation "per function". There is insufficient antecedent basis for this limitation in the claim.

### ***Claim Rejections - 35 USC § 101***

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 10 is rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention.

Claim 10 is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. The claimed invention in claim 10 is a loadable program lacking the necessary physical components (hardware) required for execution. Since claim 10 is clearly not a process or a composition of matter, and since it is directed to a program per se, it fails to fall within a statutory category and thus non-statutory.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-11 are rejected under 35 U.S.C. 102(e) as being anticipated by  
Sankaranarayan et al. (Sankaranarayan) US Patent No. 7137119.

With respects to claim 1, Sankaranarayan teaches a resource managing method for use with a resource managing apparatus having a plurality of processing means, said resource managing method comprising the steps of: accepting a resource acquisition request from any one of said plurality of processing means (Col 2, lines 9-12); determining whether a resource corresponding to said resource acquisition request from said one processing means conflicts with the resource to be used by another processing means (Col 8, lines 38-40); deciding which of the processing means found to be in conflict with one another about resource usage should be granted permission to use the resource in question (Col 8, lines 40-42); upon receipt of a request to be notified of release of said resource from the processing means not granted permission to use said resource, cataloging in a list said resource corresponding to the release notification request in conjunction with the release notification-requesting processing means (Col

14, lines 18-25; Col 12, lines 26-28); upon receipt of a notice saying that said resource has been released from the processing means having been granted permission to use said resource, checking from said list said release notification-requesting processing means (Col 11, lines 60-64); and issuing an acquisition complete notice saying that said resource has been acquired to said release notification-requesting processing means checked from said list in said list checking step (Col 12, lines 14-17).

With respects to claim 2, Sankaranarayan teaches the resource managing method according to claim 1, wherein said deciding step decides whether or not to grant permission to use said resource according to a priority predetermined for each of said processing means (Col 11, lines 64-67).

With respects to claim 3, Sankaranarayan teaches the resource managing method according to claim 1, wherein said accepting step accepts said resource acquisition request per function representing at least one resource needed to perform a desired process (Col 9, lines 27-29); wherein said determining step determines presence of conflict between resources per function (Col 8, lines 38-40); wherein said deciding step decides whether or not to grant permission to use resources per function (Col 8, lines 40-42); wherein said list cataloging step catalogs said resources in said list per function (Col 11, lines 60-64); wherein said list checking step checks said list per function (Col 14, lines 6-8); and wherein said notice issuing step issues said acquisition complete notice per function (Col 12, lines 14-17).

With respects to claim 4, Sankaranarayan teaches the resource managing method according to claim 3, wherein said deciding step decides whether or not to grant permission to use said resources according to a priority predetermined per function (Col 11, lines 64-67).

With respects to claim 5, Sankaranarayan teaches a resource managing apparatus having a plurality of processing means, said resource managing apparatus comprising: accepting means for accepting a resource acquisition request from any one of said plurality of processing means (Col 2, lines 9-12); conflict determining means for determining whether a resource corresponding to said resource acquisition request from said one processing means conflicts with the resource to be used by another processing means (Col 8, lines 38-40); deciding means for deciding which of the processing means found to be in conflict with one another about resource usage should be granted permission to use the resource in question (Col 8, lines 40-42); list cataloging means which, upon receipt of a request to be notified of release of said resource from the processing means not granted permission to use said resource, catalogs in a list said resource corresponding to the release notification request in conjunction with the release notification-requesting processing means (Col 11, lines 56-60; Col 12, lines 26-28); list checking means which, upon receipt of a notice saying that said resource has been released from the processing means having been granted permission to use said resource, checks from said list said release notification-requesting processing means (Col 11, lines 60-64); and notice issuing means for issuing an acquisition complete notice saying that said resource has been acquired to said

release notification-requesting processing means checked from said list by said list checking means(Col 12, lines 14-17).

With respects to claim 6, Sankaranarayan teaches the resource managing apparatus according to claim 5, wherein said deciding means decides whether or not to grant permission to use said resource according to a priority predetermined for each of said processing means (Col 11, lines 64-67).

With respects to claim 7, Sankaranarayan teaches the resource managing apparatus according to claim 5, wherein said accepting means accepts said resource acquisition request per function representing at least one resource needed to perform a desired process (Col 9, lines 27-29); wherein said conflict determining means determines presence of conflict between resources per function (Col 8, lines 38-40); wherein said deciding means decides whether or not to grant permission to use resources per function (Col 8, lines 40-42); wherein said list cataloging means catalogs said resources in said list per function (Col 11, lines 60-64); wherein said list checking means checks said list per function (Col 14, lines 6-8); and wherein said notice issuing means issues said acquisition complete notice per function(Col 12, lines 14-17).

With respects to claim 8, Sankaranarayan teaches the resource managing apparatus according to claim 7, wherein said deciding means decides whether or not to grant permission to use said resources according to a priority predetermined per function (Col 11, lines 64-67).

With respects to claim 9, Sankaranarayan teaches a resource managing apparatus having a plurality of applications, a resource manager access library, and a resource manager processing block; wherein said resource manager access library comprises: an accepting block for accepting a resource acquisition request from any one of said plurality of applications (Col 9, lines 6-13; see Resource Manager API); and a notice issuing block for issuing an acquisition complete notice saying that a resource has been acquired to any one of said plurality of applications; wherein said resource manager processing block comprises (Col 12, lines 14-17): a conflict determining block for determining whether the resource corresponding to said resource acquisition request from said application conflicts with the resource to be used by another application (Col 8, lines 38-40); a deciding block for deciding which of the applications found to be in conflict with one another about resource usage should be granted permission to use the resource in question (Col 8, lines 40-42); a list cataloging block which, upon receipt of a request to be notified of release of said resource from the application not granted permission to use said resource, catalogs in a list said resource corresponding to the release notification request in conjunction with the release notification-requesting processing means (Col 14, lines 18-25; Col 12, lines 26-28); and a list checking block which, upon receipt of a notice saying that said resource has been released from the processing means having been granted permission to use said resource, checks from said list said release notification-requesting processing means (Col 11, lines 60-64); and wherein said resource manager access library issues an acquisition complete notice



saying that said resource has been acquired to said release notification-requesting application checked from said list by said list checking block (Col 12, lines 14-17).

With respects to claim 10, Sankaranarayan teaches a resource managing program readable for execution by a resource managing apparatus having a plurality of processing means, said resource managing program causing said resource managing apparatus to execute a process comprising the steps of: accepting a resource acquisition request from any one of said plurality of processing means (Col 2, lines 9-12); determining whether a resource corresponding to said resource acquisition request from said one processing means conflicts with the resource to be used by another processing means (Col 8, lines 38-40); deciding which of the processing means found to be in conflict with one another about resource usage should be granted permission to use the resource in question (Col 8, lines 40-42); upon receipt of a request to be notified of release of said resource from the processing means not granted permission to use said resource, cataloging in a list said resource corresponding to the release notification request in conjunction with the release notification-requesting processing means (Col 14, lines 18-25; Col 12, lines 26-28); upon receipt of a notice saying that said resource has been released from the processing means having been granted permission to use said resource, checking from said list said release notification-requesting processing means (Col 11, lines 60-64); and issuing an acquisition complete notice saying that said resource has been acquired to said release notification-requesting processing means checked from said list in said list checking step (Col 12, lines 14-17).

With respects to claim 11, Sankaranarayan teaches a storage medium which stores a resource managing program readable for execution by a resource managing apparatus having a plurality of processing means, said resource managing program causing said resource managing apparatus to execute a process comprising the steps of: accepting a resource acquisition request from any one of said plurality of processing means (Col 2, lines 9-12); determining whether a resource corresponding to said resource acquisition request from said one processing means conflicts with the resource to be used by another processing means (Col 8, lines 38-40); deciding which of the processing means found to be in conflict with one another about resource usage should be granted permission to use the resource in question (Col 8, lines 40-42); upon receipt of a request to be notified of release of said resource from the processing means not granted permission to use said resource, cataloging in a list said resource corresponding to the release notification request in conjunction with the release notification-requesting processing means ((Col 14, lines 18-25; Col 12, lines 26-28); upon receipt of a notice saying that said resource has been released from the processing means having been granted permission to use said resource, checking from said list said release notification-requesting processing means (Col 11, lines 60-64); and issuing an acquisition complete notice saying that said resource has been acquired to said release notification-requesting processing means checked from said list in said list checking step (Col 12, lines 14-17).

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to the applicant's disclosure. Meaney et al. (US 5692209), Moody et al. (US 2005/0005272) and Sankaranarayan et al. (US 7284244) teach methods of conflict resource management and task allocation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DOUGLAS BRYANT whose telephone number is (571)270-7707. The examiner can normally be reached on M-F 8:00-5:00pm Est.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David L. Robertson can be reached on 571-272-4186. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

| /D. B./

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Art Unit: 4123

Examiner, Art Unit 4123

/DANIEL PAN/

Supervisory Patent Examiner, Art Unit 4171